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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Victoria Nez, as personal representative of the
10 Estate of Jovita Baldwin, on behalf of the
statutory beneficiary of Jovita Baldwin,

11 Plaintiff,

12 v.

13 American Family Mutual Insurance
14 Company,

15 Defendant.

No. CV-19-08200-PCT-GMS

ORDER

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17 Pending before the Court is Defendant American Family Mutual Insurance
18 Company's ("Defendant") Motion *In Limine* No. 1 re Damages. (Doc. 47.) For the
19 following reasons, the Motion is granted in part and denied in part.

20 **DISCUSSION**

21 Jovita Baldwin was fatally injured while crossing Camelback Road in Phoenix on
22 October 12, 2017. Plaintiff Victoria Nez ("Plaintiff") is the personal representative of Ms.
23 Baldwin's estate and the legal guardian of Ms. Baldwin's son, Shawn Carroll. Upon the
24 death of her sister, Plaintiff made a claim for wrongful death under Defendant's uninsured
25 motorist coverage and was denied.

26 Trial on this matter is set for July 27, 2021. (Doc. 54.) Defendant seeks to exclude
27 the following evidence at trial: (1) evidence of Plaintiff and/or her family's personal loss;
28 (2) evidence of Shawn Carroll's loss of financial support; and (3) evidence of Shawn

1 Carroll's mental health treatment. (Doc. 47 at 4.)

2 Evidence of the personal loss that Plaintiff and/or her family, except for Shawn
3 Carroll, suffered because of Ms. Baldwin's death is excluded from trial. In Arizona, a
4 wrongful death action may be brought by a surviving statutory beneficiary or by a personal
5 representative of the deceased person on behalf of a surviving statutory beneficiary. A.R.S.
6 § 12-612. Plaintiff brings this action on behalf of Shawn Carroll. Accordingly, only Shawn
7 Carroll's damages are relevant.

8 The Court will not, however, exclude evidence of Shawn Carroll's loss of financial
9 support or mental health treatment at this time. Defendant seeks to exclude this evidence
10 on the grounds that it was not properly disclosed. (Doc. 47 at 2–3.) Excluding this
11 evidence would be equivalent to imposing a sanction on Plaintiff. *See* Fed. R. Civ. P.
12 37(b)(2). It is not clear from the parties' briefing what has and has not been disclosed
13 regarding Shawn Carroll's damages. Without more information, imposing a sanction is
14 inappropriate. Defendant may reassert this objection at trial.

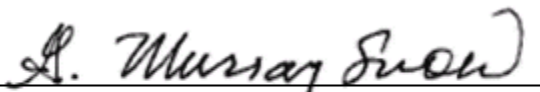
15 Accordingly,

16 **IT IS THEREFORE ORDERED** that Defendant American Family Mutual
17 Insurance Company's Motion *In Limine* No. 1 Re Damages (Doc. 47) is **GRANTED** in
18 part and **DENIED** in part as follows:

19 1. Evidence of the personal loss that Plaintiff and/or her family, except
20 for Shawn Carroll, suffered because of Ms. Baldwin's death is excluded from trial.

21 2. Defendant's Motion to exclude evidence of Shawn Carroll's loss of
22 financial support and mental health treatment is denied without prejudice.

23 Dated this 4th day of May, 2021.

24 
25 G. Murray Snow
26 Chief United States District Judge
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